

BEFORE THE TOWN OF DENTON BOARD OF APPEALS

**IN RE: MATTHEW RIDDLEBERGER
APPLICATION FOR FRONT YARD
SETBACK VARIANCE**

CASE NO. BOA-22-001

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MINUTES, FINDINGS OF FACT, CONCLUSIONS AND DECISION

The Board of Appeals held a Public Hearing on Monday, June 13, 2022, at 6:30 p.m., at the Denton Town Office to consider an application for a front yard setback variance for Matthew Riddleberger, GRCC Properties LLC, (hereinafter, the “Applicant”), from the strict application of the Town of Denton Zoning Code (Chapter 128-01, et seq.).

Board Members present were Chairperson Troy Livingstone, Vice Chairperson Florence Doherty, Board Member Mary Lori Schmidt, and Alternate Board Member Gary Smith. Also present were Counsel for the Board, Chris Drummond, Water and Wastewater Superintendent, Mark Chandler, and Planning and Codes Staff, Donna Todd. The Applicant and Property Owner, Matthew Riddleberger, and Co-owner, Michael Hause were present.

PROCEDURAL HISTORY

On April 28, 2022, the Applicant filed an application with the Board of Appeals seeking approval for a front yard setback variance to accommodate renovations to the existing car wash facility located at 513 South Fifth Avenue, Denton, Maryland, Caroline County Tax Map 105, Parcel 451.

The application was advertised in the Times Record for two consecutive weeks on May 25th and June 1st, a sign was posted on the property on April 29th, and all property owners within 200 feet of the property received written notification of the Public Hearing. All public notice requirements have been satisfied.

SUMMARY OF PROCEEDINGS

On June 13, 2022, Chairperson Livingstone opened the Public Hearing at 6:30 p.m., followed by the Pledge of Allegiance.

Board Member Doherty made a motion to nominate Troy Livingstone as the Chairperson, seconded by Board Member Schmidt, passed unanimously (3:0).

Board Member Schmidt made a motion to nominate Florence Doherty as the Vice Chairperson, seconded by Chairperson Livingstone, passed unanimously (3:0).

Vice Chairperson Doherty read the Public Notice advertised in the Times Record for BOA-22-001 into the record.

Chairperson Livingstone swore in Matthew Riddleberger and Michael Hause, GRCC Properties LLC, both are 50% property owners of 513 South Fifth Avenue.

Matthew Riddleberger, Applicant, provided a brief summary of the variance request for the front yard setback for the car wash facility. The Applicant's architect contacted the Town regarding setbacks for commercial property but did not state it was for a car wash and was told 30 feet. A car wash is required to have a 50-foot front yard setback. The existing building has over a 50-foot front yard setback but does not include the canopy and equipment that was added onto the front of the building. The Applicant is requesting a 7-foot variance for the front yard resulting in a 43-foot front yard setback for the improvements to the existing car wash. The existing equipment on the front of the building extends 2 feet farther into the front yard than the requested variance for the renovations.

Mrs. Todd verified one inquiry was received and no other comments were received from the public or other agencies.

David Renshaw, Senior Code Enforcement Officer, researched the property and found very little information on the construction of the building. A permit was not found for the existing blowers installed on the front of the building.

The age of the building is unknown and not shown on the SDAT information. Prior zoning approvals for the existing car wash are also unknown due to the age of the building and prior zoning regulations.

Fifth Avenue is an emergency route.

Since the Applicant is not changing the use of the property, this application is not scheduled to be reviewed by the Planning Commission. A building permit could not be issued for the renovations due to the front addition exceeded the front yard setback of 50 feet. The Planning Commission is not required to review variance applications.

The Planning and Codes Staff will review the application prior to issuing a building permit and any conditions required by the Board of Appeals.

TESTIMONY AND EVIDENCE

The Applicant's request is for a 7-foot variance resulting in a 43-foot front yard setback.

The Applicant's testimony included a brief description of the proposed improvements.

Photo #1 in the application illustrates the existing equipment and the proposed placement of the renovations to the front of the building. The Applicant referred to Photo #2 illustrating the neighbor's commercial property located entirely in front of the car wash. The Applicant is not blocking traffic or site views.

The car wash drains into the Town's sewer system and subject to the applicable Town water and sewer usage fees.

Exhibit A, A300, West and North Elevations, were referred to as the completed rendering provided by the Applicant. An architectural rendering of the improved building was not provided. Sign improvement information or rendering was not provided.

From the rear of the building to the rear property line is approximately 115 feet as shown on Exhibit A, C200. The drains are marked with ☒ located in the center of the bays. There is space on the rear of the property for the car wash addition, but the existing building would have to be demolished and a new car wash facility built. This would be expensive. Cars entering from the front of the building into the car wash could create a stacking problem for cars waiting to use the car wash and create safety issues.

The car wash will be open 24 hours a day every day with no employees. When cars complete the wash cycle, they should exit the property.

Safety issues for traffic exiting and entering the property will be addressed by directional signage on the property. Cars can access the existing vacuums by exiting to the right after exiting the car wash.

All of the grassy areas will be maintained for stormwater runoff.

The finished building to the back of the sidewalk will be 53 feet. The property line begins 5 feet from the back of the sidewalk. The Town's right-of-way is 15 feet.

The Applicant is renovating the building with one automatic car wash bay and two manual self-serve car wash bays. The other automatic car wash bay will be vacant. The automatic car wash bay is approximately 6 minutes and 30 seconds for a complete cycle.

The improved car wash will be equipped with a water recapture and recycle system that will conserve water and more environmentally friendly.

DELIBERATIONS

During and following the receipt of all testimony and evidence, the Board deliberated in Open Session.

FINDINGS AND DECISIONS

Variance Request – Vice Chairperson Doherty made a motion that the front yard setback variance application filed by Matthew Riddleberger, BOA-22-001, for a 43 foot front yard setback for the existing car wash facility be granted based on the following standards for granting a variance with the conditions to submit to the Planning and Codes Department for a review of a full architectural rendering, review of internal traffic flow and directional signage, and review of freestanding signage:

- (a) Strict enforcement of this chapter would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. ***To meet the 50' setback and accommodate updated equipment, the entire building would need to be redesigned to allow for an addition to the rear of the property. The biggest problem with this would be demolishing the existing concrete pads to properly align the floor drains. The existing car wash drains into the Town's sewer system and subject to Town's water and sewer fees. To extend from the rear of the building, the drains would have to be relocated.***

- (b) Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity, and which are peculiar to the land, structure or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness, or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the line of sight when such object or objects cannot be easily removed. ***It would seem that the 50' setback specific to car wash facilities was put in place to keep cars from backing up into the roadway. This site will not share that concern. All traffic enters from the rear of the property and exits to the front of the property. Ingress and egress is accommodated on the property.***
- (c) Such special conditions or circumstances must not be the result of any action or actions of the applicant. ***Currently the existing building has a canopy extending well into the 50' setback. This building was purchased as it is today and has not been modified by the Applicant.***
- (d) Granting of the variance must be in harmony with the general purpose and intent of this chapter and must not be injurious to adjacent property, the character of the neighborhood or the public welfare. ***The car wash is located in a commercial area and does not detract from neighboring properties or change the general character of the neighborhood. None of the neighboring properties will be injured or affected by the proposed variance. Again, the finished building would actually be almost 2 feet further back than the existing structure.***
- (e) Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved. ***A car wash is allowed in the General Commercial (GC) District by Special Exception.***
- (f) The condition, situation or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to this chapter. ***This hardship is specific to this location and building, not a recurring situation.***
- (g) The variance granted must be the minimum necessary to afford relief. ***A variance of 7 feet is reasonable resulting in a 43-foot front yard setback. The Denton Town Code required a 50-foot setback. This is the minimum needed to allow for updated equipment to be housed indoors, providing a much more attractive front elevation.***
- (h) In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this chapter. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. ***The Board of Appeals is requiring a strenuous review of the site plan for the traffic flow, directional signage, architectural rendering of the building, and the freestanding signage.***

- (i) The applicant for a variance shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible. ***Credible evidence in the form of photos and narratives have been provided as part of this application, in support of the burden of proof requirement.***

Board Member Schmidt seconded the motion. The motion passed (3:0).

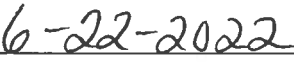
Staff Item – None.

The meeting on June 13, 2022, adjourned at 7:24 p.m.

ATTEST:



Donna R. Todd

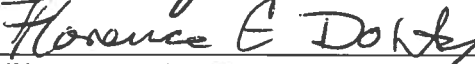


Date

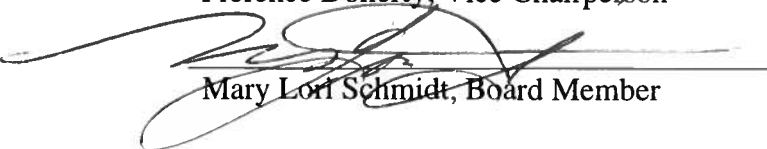
DENTON BOARD OF APPEALS:



Troy Livingstone, Chairperson



Florence Doherty, Vice Chairperson



Mary Lori Schmidt, Board Member